

Printed at the Close of the Journal
To the People of the State of California,

As your delegates, elected to revise the present Constitution and to frame a new Constitution, it is fitting that we should state in brief the most important changes proposed, and some of the reasons therefor.

Our present Constitution has been in force for nearly thirty years, during which time our population, wealth and varied interests have greatly augmented. However wise and judicious when adopted, it has now become wholly inadequate to subserve the present and future necessities of the people without material modifications and restrictions. To secure an efficient and economical administration of the several departments of our government, a new Constitution is an imperative necessity.

It is not probable that a Constitution could be framed that would be entirely satisfactory to any one man in the State. Each would find in it something he would exclude, and would insert something it does not contain. Our work should however be judged as a whole, and if better than the old Constitution, it should be adopted. For many years the people of this State have been oppressed by the onerous burdens laid upon them for the support of the government, and by the many acts of special legislation permitted and practiced under the present Constitution. Its provisions have been so construed by the Courts

2. as to shift the great burden of taxation from the wealthy and non producing class, to the laborers and producers.

The presence of large and increasing numbers of an alien and nonassimilating race in our midst which threatens by competition to enslave our laborers and by contamination to degrade our civilization, renders it necessary that the whole power of the state should be exercised to protect its citizens and prevent as far as possible the further immigration of Chinese.

The only restriction upon a Legislature is the Constitution of the state and of the United States. It therefore becomes necessary that State Constitutions - should contain many regulations and restrictions - which must necessarily be enlarged and extended from time to time to meet the growing demands of the sovereign people.

3.

Declaration Of Rights

The principal changes in this article are as follows

In reference to the Grand Jury it is provided that offenses heretofore required to be prosecuted by indictment may be prosecuted by information after examination and commitment by a magistrate. This change dispenses with the necessity of drawing and summoning a Grand Jury to act upon every case before a party accused can be put on trial and will be a great saving of expense to the

4

various Counties of the State. But to guard against possible abuse or favoritism on the part of the prosecuting officer and for the purpose of investigating the conduct of officials and supervising the management of county affairs, a Grand Jury is required to be drawn and summoned at least once a year in each County. The practice of prosecuting by information instead of by indictment has been adopted in several of the States and found to work well -

In respect to the trial jury it is provided that in civil actions three fourths of the jury may render a verdict. This change from the old common law practice has also been tried elsewhere with satisfactory results.

In Criminal Cases not amounting to felony, a jury may be waived and in like cases as well as in civil actions the jury may consist of a less number than twelve if the parties so agree.

The only change made in the section relating to freedom of speech and the press is that in prosecutions - for libel for publication in a newspaper, the trial is required to be had in the County where the paper has its publication office or where the party alleged to be libeled at the time resided, subject to be changed for cause.

The provision limiting the exercise of the right of eminent domain has been amended so as the better to protect the rights of the citizen in the possession and enjoyment of his property. A new section

5

has been added declaring against monopolies to the effect that no special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislature, nor shall any citizen or class of citizens be granted privilege or immunities which upon the same terms shall not be granted to all citizens.

Rights Of Suffrage

It is provided that no native of China shall enjoy the elective franchise in this State. This amendment is intended to guard against a possible change in the naturalization laws so as to admit Chinese to citizenship, and it was necessary to exclude all natives of China in order to avoid the prohibition contained in the fifteenth amendment to the Constitution of the United States against abridging the right of citizens of the United States to vote on account of race or color. This completely closes the door against Chinese ever becoming entitled to vote in this State.

Legislative Department

The changes under this head are important. While securing equal, if not greater efficiency in this department of the government, the amendments proposed will do much towards purifying the public service and will reduce the expenses of

6

The State from fifty to one hundred thousand dollars annually. It is provided for the meeting of the Legislature on the first Monday after the first day of January, thus doing away with the holiday recess.

The power of the Legislature has been restricted in every case where it would be safe to do so; ~~in~~ ⁱⁿ respect to the enacting of local or special laws. In view of these changes and of the further fact that the Legislatures heretofore have spent more than half their time in recesses and on local measures, ~~we~~ ^{we} have shortened the regular sessions to sixty days. To prevent the heretofore dangerous practice of rushing through bad bills during the last hours of the session and in the midst of excitement, ~~it~~ ^{it} is provided that no bill shall be introduced during the last ten days of the session without the consent of two thirds of the members. The qualifications of members of either House are three years residence of the State and one year of the district represented. In apportioning population for representation, Chinese are excluded. The pay of members is not to exceed eight dollars a day, the mileage ten cents per mile, and the contingent expenses not exceeding twenty five dollars. No pay is allowed to members during a recess or adjournment for more than three days. It is further provided that no bill shall become a law until printed and

7. read at length on three several days and shall have received a majority on an aye and no vote of all the members elected to each house -

The Governor is given ten days after the adjournment of the Legislature to Consider and sign or reject bills and is also given power to veto any item of an appropriation bill without invalidating the whole bill.

This is a provision of incalculable importance. The power of the Legislature to appropriate money for any purpose besides the support of the State Government and institutions exclusively under the control of the State is prohibited except in the case of certain worthy Charities.

7. Sales of Shares of the Capital Stock of any Corporation ~~on margin are declared void and the Legislature is directed to regulate or prohibit stock~~ gambling. The legislature is prohibited from giving or lending the credit of the State or of any County City or other political ~~sub-division~~ ^{sub-division} of the State, also from making or authorizing the making of any gift grant or subsidy to any person Corporation or association. Lobbying or the acceptance of a reward when in the service of the public is declared a felony. No person is eligible to the office of Governor who has not been a citizen of the United States and a 9⁶ resident of this State five years. When convened in extra session the Legislature is limited to the Legislation specified in the proclamation convening it.

8

The Lieutenant Governor is disqualified from holding any office except as specially provided during his term.

The salaries of the ~~State~~^{State} officers are considerably reduced. For the first two terms the salary of the Governor is six thousand dollars per annum. That of the Lieutenant Governor the same per diem as is received by the Speaker of the Assembly to be allowed only during the session of the Legislature, and that of each of the other State Officers, three thousand dollars per annum in full for all services and it is provided that they shall not receive any other fees or perquisites for the performance of any official duty. After the first two terms the Legislature may reduce, but cannot increase, the above named compensation.

No Clerk in any office shall receive a salary exceeding \$1600. per annum.

The Legislature may in its discretion abolish the office of Surveyor General. The Governor shall not during his term of office be elected a Senator to the Senate of the United States. No convict who has been twice convicted of felony shall be pardoned unless upon the written recommendation of a majority of the Judges of the Supreme Court.

Judicial Department

The Supreme Court consists of a Chief Justice and six associate Justices elected for twelve years -

9

The Court may sit in departments as well as in Bank and shall be always open for the transaction of business. The plan of permitting the Court to sit in Departments is new and is intended to augment the working capacity of the Court. The increasing business devolved upon our Court of last resort renders it necessary to provide some relief, and the system proposed was adopted instead of creating intermediate appellate Courts as being more economical and better adapted to the speedy determination of ~~Courts~~ ^{causes}, as well as giving more time for the thorough consideration of the same. The jurisdiction of the Supreme Court thus constituted is substantially the same as in the old Constitution. But all decisions are required to be in writing and the reasons therefore to be stated.

The Superior Court takes the place of the District County and Probate Courts and the Criminal Courts in the City and County of San Francisco. Except the Police Courts, and its jurisdiction includes substantially the same as all other Courts thus superseded.

The number of Judges to each Superior Court, in the larger Counties and in the City and County of San Francisco is proportional to the amount of judicial business to be transacted, with power given to the Legislature to increase or diminish this number as circumstances may require.

Wherever there is more than one judge to a Court in a County the ~~Coordinate~~ ^{Co-ordinate} power given to the judges will enable the same number to dispatch more business than under the present system, where each judge is confined to his own Court.

The Salary of the Superior Court Judges is paid one half by the State and one half by their respective Counties. Inasmuch as these judges take the place of the District Courts, which are State Courts, and the County Courts and which are now paid by the State and Counties respectively, the expense of the new system to the State and Counties will aggregate about the same as the one superseded but much greater judicial force and facility for the dispatch of business is secured. It will also give to each County a Court of General Jurisdiction open at all times for the transaction of business, thereby as it were without delay bringing Justice home to every man's door.

In Order to remedy a growing evil in the delay of Courts in deciding Causes, ~~It~~ ^{it} is provided that before drawing their Salary the Justices of the Supreme Court and Judges of the Superior Courts shall be required to severally file an Affidavit that no case remains undecided in their Courts which has been submitted for ninety days.

Education.

The Changes in this article are not numerous but they are important

It is provided that two or more Counties may by Authority of the Legislature unite and form one District and Elect one Superintendent of Schools for such District - It is made mandatory upon the Legislature to provide for a system of Free Schools which must be maintained for at least six months in each year.

The public school system is for the first time clearly defined so as to exclude all Public Schools, thus bringing them entirely under the control of the School Authorities, and it is provided that the entire fund furnished by the State shall be used exclusively for the support of Primary and Grammar Schools. The text book question has been taken from the Legislature and placed under the control of Local Authority.

The examination of Teachers and the Granting of Certificates ^{has been} ~~being~~ placed under the same control. The appropriation of Public money for the support of any Sectarian or Denominational School or for the support of any school not under the exclusive control of Public School Officers has been prohibited.

The University is as far as possible removed from the influence of politics but it is made the duty of the Legislature to enforce compliance with the terms of its Endowment, while the entire revenue derived from the Agricultural College Grant, is to be used exclusively for the support of at least one college of Agriculture and the Mechanic Arts.

The responsibility of the State in regard to that fund is clearly recognized in the Constitution. No person can hereafter be refused ^{admission} to any of its Collegiate departments on account of sex-

State Institutions.

It is provided for the appointment of five Prison Directors to hold office for ten years without compensation except necessary expenses while in the discharge of official duty. They have charge and superintendence of the State Prisons and appoint the Executive Officer and Clerk of the same. It has been shown that in reference to our Insane Asylum, the management of which has generally been unexceptionable a good class of men can be ~~secured~~ to fill the office of ~~Trustees~~ Directors without salary. It is believed that this change will remove the management of our State Prisons from the domain of Party politics. After January

first 1852 the letting out of Convicts under Contract is to cease and they are to be worked for the benefit of the State.

City, County and Township Organizations.

In this

Article a new system of Local Self government has been established. It provides that County Seats shall not be removed unless two thirds of the Electors voting on the Proposition shall vote in favor of such removal. A County cannot be reduced in population to less than Eight thousand by the formation of a new County.

A new County cannot be formed containing a population less than five thousand.

The Legislature is directed to Establish a system of County Governments which shall be uniform throughout the State and by General Laws to provide for Township Organizations.

Cities and Towns may become Incorporated under general laws, whenever a majority of the Electors Voting at a general Election may so determine. City and County Government may be consolidated into one municipal government.

Any City of one hundred thousand Inhabitants may form a Charter for its own government consistent with and subject to the Constitution and Laws of the State. But such Charter when ratified by the People must be submitted to the Legislature for approval and may be amended at intervals of not less than two

14

Years. Any County, City, Town or Township may make and enforce within its limits all necessary Police, Sanitary and other regulations not in conflict with general laws. The making of profit out of County, City or Town or other public moneys or using the same for any purpose not authorized by law is declared to be a felony. Counties, Cities, Towns, Townships, Boards of Education and School Districts are prohibited from incurring any indebtedness or liability for any purpose exceeding in any one year the revenues provided for them respectively for such year without the assent of two thirds of the voters thereof voting at an election held for that purpose.

Corporations Other Than Municipal.

Under this head many restrictions demanded by the advancing ideas of the times have been provided for. The provisions of the existing Constitution respecting Banks and Banking have been retained. Excepting the constantly violated restriction of such Institutions to the deposit of Gold and Silver and ^{they} are forbidden to Issue Paper to Circulate as money. For the better protection of creditors and stock holders of Corporations and Joint Stock associations the Directors and Trustees are made liable for the Embezzlement and misappropriation

Of funds by the Officers. It provides for annulling all unused Charters, Claims of franchises, and special privileges.

The Legislature has been prohibited from attending Charters or remitting forfeitures; and from authorizing any Collusive Alienation or leasing of Franchises or property of Corporations. The right of Eminent domain as to the franchises and property of all Corporations has been preserved. They have been prohibited from engaging in business other than authorized in their Charter, from holding real estate other than that required for their business, longer than five years, and from making fictitious increase of their Capital stock. The right of representation to all Share holders has been secured and the formation of Co-operative Societies for agricultural, mechanical and manufacturing purposes has been authorized. Provisions to secure the better management of Corporations in this State have been made and many other checks and guarantees have been provided for, which cannot for want of space be more fully specified here and to which we invite the attention of the voter.

The subject of Railroad and other Transportation Companies has become of overshadowing importance. The Convention adopted the provisions to be found in a majority of modern Constitutions

Declaring railroad and other Transportation
 Companies Common Carriers and Subject to
 Legislative Control granting the right to intersect
 and connect, and requiring the receipt and
 Transport of passengers and freight without delay
 or discrimination, forbidding contracts between
 the Companies and their officers, forbidding Pooling
 or combinations of earnings for the purpose of
 monopoly. Preventing the increase of Railroad
 Rates that have been reduced for purposes
 of competition and prohibiting discriminations
 in Charges ^{or} facilities for Transportation -
 The right of the State to Control the operations
 of Railroad and other Transportation Companies
 and to establish and regulate their Rates of
 Charges have been Established by the highest
 Judicial authority. It is necessary to determine
 how that right shall be Exercised to secure
 the best interest of all concerned. Convinced
 by the uniform experience of other Communities
 that satisfactory regulation cannot be accomplished
 by the Legislature through general Laws, a Constitu-
 tional Commission is proposed composed of
 three to be Elected in districts with power to
 Regulate and establish Rates and to supervise
 the operation of Railroad and other Transportation
 Companies of the State
 The incidental powers necessary to make this
 power effectual, such as the authority to examine

17 Books take testimony, Issue subpoenas and other process, hear and determine Complaints, apply to the Courts for the Enforcement of their decisions and the correction of abuses etc. are also conferred and the Legislature is authorized to supply omissions. The right of action of any individual is not affected. For incompetency or malfeasance the Legislature is authorized to remove any Commissioner by a two third vote. This plan is submitted with confidence of the ~~Constitution~~ in its efficiency.

Revenue No Taxation

In the existing Constitution there is no definition of property. In the new Constitution Property is defined. It includes money, credits, Bonds, Stocks, Aves. Franchises, and all other matters and things Capable of private ownership, Real, Personal and mixed.

This definition is comprehensive and includes every species of Property is to be taxed according to its value.

The effect of this provision will be very important, as it will bring upon the assessment roll an immense amount of property in the hands of the wealthy, which now escapes Taxation under the decision of the Supreme Court. The only property ^{exempted from taxation is growing crops, public property,} and property exempt under the laws of the United States.

The taxation of mortgages is provided for in this

18

May, viz, The owner of the land is to pay the Tax on its value deducting the value of the mortgage. The owner of the mortgage is to pay the tax on the value of his mortgage. This is on the principle that a man shall pay Taxes on what he is worth and on the same principle if there is no mortgage but simply a note or Credit, the Legislature is authorized to permit the holder to deduct his debts if they are due to Residents of this state. This deduction can be made from unsecured Credits only.

If any Contract is made by which a debtor is to pay the Tax on any money loaned the Contract is void as to the interest to be paid and also as to the tax.

Another very important provision is that land and the Improvements shall be separately assessed and Cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value. The effect of this provision will be that Extensive landed proprietors unless they choose to pay the increased Tax will have to Cultivate their Lands or dispose of them to some one who will.

Another important provision is that the Legislature shall require each Tax payer annually to deliver a Statement under oath to the County Assessor of all the Property Owned by him on the first Monday of March.

This will prevent the fraudulent transfer of property in order to escape Taxation. The Legislature is empowered to establish an income tax. But this is only permissive and is intended to reach Incomes derived from property not otherwise reached by taxation such as foreign Corporations, Gas Companies and the like. The legislature is required to pass all laws necessary to carry out the different provisions and is empowered also to provide for the Payment of taxes on Real by installments. State and County Boards of Equalization have been created in order to equalize the assessment of property between the Counties and Individuals.

Water and Water Rights

The peculiarities of our Climate, its extreme wet and dry seasons, the extensive influence of water on mining, agriculture, manufactures and domestic uses, thereby controlling nearly every avenue to wealth and the additional fact of the control of nearly all the available water of the state by Individuals and Corporations necessitated the adoption of stringent provisions for the use and control of water. So far as the public has an Interest in such use it is provided that when water is offered for sale or hire to the Public, it shall become

20

A public use and be Regulated by general Laws. In Cities and towns it is Compulsory on the Boards of Supervisors or other governing-bodies to fix annually the price for which water shall be sold to the cities or towns and the inhabitants thereof and Enforce such regulations by suitable Penalties.

Harbors Tide Water ^{and} Navigation Streams
Many of the Landings and Wharves being now monopolized by a few persons under private ownership and a disposition being manifest on the part of the owners to practice Extortion upon the Public it is provided that no Individual or Corporation shall deny the Public a right of way over their Wharves or Landings and that the Legislature shall Enact such laws as will give a liberal Construction in favor of the Rights of the Public. It is also provided that Tide Lands fronting on navigable water be withheld from Grant or sale.

Future Amendments

Under the existing Constitution a proposed Amendment, must pass the Legislature at two sessions before being submitted to the People. It is provided that amendments

Of the Legislature shall be submitted at the next general Election: and if two or more are submitted at the same time they shall be voted on separately.

A Convention called to revise the Constitution may submit its work to the people in such manner as the Convention may determine, thus giving it power to submit articles separately if desirable.

Chinese

The subject matter of this article is entirely new and its appearance in the proposed Constitution - arises from the peculiarity of our situation. The article authorizes the use of the whole police power of the State to abate what no argument is necessary to prove is a nuisance - that is the presence and influx of the Chinese. Their presence is declared to be dangerous and the Legislature is directed to discourage their Immigration by all the means within its power: to pass laws to prohibit their introduction into the State and to delegate all necessary power to Incorporated Cities and Towns to remove them without their limits. Their employment on Public works is prohibited and all Corporations - are forbidden to employ them. These provisions are rendered the more necessary

22

In view of the fact that the Federal Government has refused to grant us any relief from this Overshadowing Evil-

Miscellaneous Subjects

Under this head the following provisions among others are made in the new Constitution. The Capitol is to remain at the city of Sacramento until changed by a majority vote of the people under such rules and regulations as the Legislature by a two thirds vote of each house may provide.

Every person is disqualified from holding any office of Profit or Trust who shall be convicted of having given or offered any bribe to procure his election or appointment. Laws must also be passed prohibiting persons convicted of Bribery Perjury Forgery Malfeasance in office or other high crime from the right of suffrage - serving on juries or holding any office. mechanics artificers laborers and material men shall have a lien for the value of their labor or material upon the property upon which they have bestowed their labor or for which they have furnished material.

The elections have been transferred from the odd to the even numbered years and judicial officers are to be elected at the same time other officers are elected. Where within four years we have heretofore held from four to six elections. Counting State Judicial County

23

And Congressional, It is now proposed to have but two

The State Officers are to be elected on the even numbered years between the Presidential elections. So that State politics will not be mixed up with or overshadowed by National. The expense of Elections will thereby be very greatly reduced. Conclusion

In Conclusion we submit the result of our labor to you for your approval or Rejection. Considering the Climate, Situation and extent of our State and the many varied and almost Irreconcilable interests of our people our task has not been an easy one. We have endeavored to remain faithful to our trust - to uphold the Rights of the people at all times; Feeling that of them we were a part, to them we were responsible, and that they must finally pass upon the Conclusion reached by us.

It now remains with you to determine whether you shall continue under the old ~~regime~~ ^{regime} Or approve of the Organic law we herewith submit to you.

Sacramento March 3 1849